

AN ACT

relating to energy savings performance contracts.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 302.001(4), Local Government Code, is amended to read as follows:

(4) "Energy savings performance contract" means a contract with a provider for energy or water conservation or usage measures in which the estimated energy savings, utility cost savings, increase in billable revenues, or increase in meter accuracy resulting from the measures is subject to guarantee to offset the cost of the energy or water conservation or usage measures over a specified period. The term does not include the design or new construction of a water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, or drainage project. The term includes a contract related to the pilot program described by Subdivision (9-a) and a contract for the installation or implementation of the following in new or existing facilities, including all causally connected work:

(A) insulation of a building structure and systems within the building;

(B) storm windows or doors, caulking or weather stripping, multiglazed windows or doors, heat-absorbing or heat-reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;

1 (C) automatic energy control systems, including
2 computer software and technical data licenses;

3 (D) heating, ventilating, or air-conditioning
4 system modifications or replacements that reduce energy or water
5 consumption;

6 (E) lighting fixtures that increase energy
7 efficiency;

8 (F) energy recovery systems;

9 (G) electric systems improvements;

10 (H) water-conserving fixtures, appliances, and
11 equipment or the substitution of non-water-using fixtures,
12 appliances, and equipment;

13 (I) water-conserving landscape irrigation
14 equipment;

15 (J) landscaping measures that reduce watering
16 demands and capture and hold applied water and rainfall, including:

17 (i) landscape contouring, including the use
18 of berms, swales, and terraces; and

19 (ii) the use of soil amendments that
20 increase the water-holding capacity of the soil, including compost;

21 (K) rainwater harvesting equipment and equipment
22 to make use of water collected as part of a storm-water system
23 installed for water quality control;

24 (L) equipment for recycling or reuse of water
25 originating on the premises or from other sources, including
26 treated municipal effluent;

27 (M) equipment needed to capture water from

1 nonconventional, alternate sources, including air-conditioning
2 condensate or graywater, for nonpotable uses;

3 (N) metering or related equipment or systems that
4 improve the accuracy of billable-revenue-generation systems;

5 (O) alternative fuel programs resulting in
6 energy cost savings and reduced emissions for local government
7 vehicles, including fleet vehicles;

8 (P) programs resulting in utility cost savings;
9 or

10 (Q) other energy or water conservation-related
11 improvements or equipment, including improvements or equipment
12 relating to renewable energy or nonconventional water sources or
13 water reuse.

14 SECTION 2. Section 302.005, Local Government Code, is
15 amended by adding Subsections (d) and (e) to read as follows:

16 (d) The scope of an energy savings performance contract may
17 not be modified under this section by change order, contract
18 addendum, or other method:

19 (1) to perform work that is not related to, connected
20 with, or otherwise ancillary to the measures identified in the
21 original scope of an energy savings performance contract; or

22 (2) in a way that increases the price of the original
23 awarded contract by more than 25 percent of the original contract
24 value.

25 (e) Subsection (d) applies only to the design or
26 construction of a water supply project, water plant, wastewater
27 plant, water and wastewater distribution or conveyance facility, or

1 drainage project.

2 SECTION 3. Chapter 302, Local Government Code, is amended
3 by adding Section 302.008 to read as follows:

4 Sec. 302.008. ENFORCEMENT. (a) A contract entered into or
5 an arrangement made in violation of this chapter is voidable as
6 against public policy.

7 (b) This chapter may be enforced through an action for
8 declaratory or injunctive relief filed not later than the 10th day
9 after the date the contract is awarded.

10 SECTION 4. The changes in law made by this Act do not apply
11 to an energy savings performance contract entered into before the
12 effective date of this Act, and the former law governing the
13 contract is continued in effect for that purpose.

14 SECTION 5. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 3583 was passed by the House on May 13, 2021, by the following vote: Yeas 145, Nays 0, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3583 was passed by the Senate on May 21, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor